IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 360 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS
and
Hon'ble MR.JUSTICE K.M.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED INDIA INSURANCE CO.LTD.

Versus

BHAGUBEN RAVJIBHAI WD/O. RAVJIBHAI BHANABHAI

Appearance:

1. First Appeal No. 360 of 1991

MR PV NANAVATI for appellant
MR BJ TRIVEDI for Respondent No. 1
MR JT TRIVEDI for Respondent No. 1
MR HIMANSHU TRIVEDI for Respondent No. 1
NOTICE SERVED for Respondent No. 2-5

CORAM : MR.JUSTICE KSHITIJ R.VYAS
and
MR.JUSTICE K.M.MEHTA

Date of decision: 07/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE KSHITIJ R.VYAS)

The appellant, Insurance Company, has filed this appeal, challenging the interim award of Rs.25,000/passed below Application at Exh.25 under Sec.140 of the Motor

Vehicles Act, in Motor Accident Claims Petition No.102 of 1988,dated 8th Oct.1990, by the Motor Accident Claims Tribunal (Main) at Bhavnagar.

Along with this appeal, the appellant has also preferred an application being Civil Application No.1374 of 1991 praying for stay of the execution, implementation and operation of the order of the Tribunal. This Court, by its order dated 22nd March 1991 issued Rule in the said application and granted the relief as prayed for, subject to the condition that the awarded amount be deposited by the applicant/appellant within a period of six weeks thereof. On 14.8.1992, this Court made the Rule absolute in the said application by directing that the amount of Rs.20,000/- of the deposited amount may be invested by the Tribunal with any Nationalised Bank for a period of 37 months in such a way that the interest is payable on the deposit periodically and on the same being collected from the Bank, it may be disbursed to the claimants. The remaining amount of Rs.5,000/- may be paid to the claimant Bhaguben Ravjibhai for her own benefit and for the benefit of other claimants by Account Payee Cheque.

Mr.Trivedi, learned Counsel appearing for the respondents-claimants states on instructions that the claimants have not even withdrawn the said amount though ordered by this Court. He has further submitted that because of the pendency of the appeal and since the record and proceedings is received by this Court, the main MAC petition is not heard for all these years. He, therefore, seeks leave to withdraw the original Application at Exh.25 filed under Sec.140 of the Motor Vehicles Act. This prayer he has made with a view to see to it that the main Motor Accident Claims Petition is heard by the Tribunal. Permission as prayed for is granted. Application at Exh.25 stands withdrawn accordingly.

Since the Application at Exh.25 for interim award is withdrawn, the present appeal, in our opinion, has become infructuous and the same is accordingly disposed of. It is, however, clarified that the amount deposited by the Insurance Company in pursuance of the order passed by this Court may be reinvested by the Tribunal till hearing of the main Motor Accident Claims Petition pending before the Tribunal and the same shall be subject to the final outcome of the said petition. It is also clarified that in case in pursuance of the order passed by this Court dated 14th Aug.1992, the claimant has withdrawn the amount of Rs.5,000/-, the same shall be

adjusted by the Tribunal when the final order in the main petition is passed. In view of the fact that much time has elapsed because of the pendency of the appeal, with the result, the main MAC petition pending before the Tribunal is not heard, we direct the Motor Accident Claims Tribunal, Bhavnagar to hear and dispose of the Motor Accident Claims Petition No.102 of 1989 as early as possible and in no case later than 31st Dec.2002. Office shall return the record and proceedings forthwith to the Tribunal concerned.

(Kshitij R. Vyas, J.)

(Kamal M. Mehta, J.)
Sreeram.